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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/764,467	01/27/2004	Tetsuro Motoyama	245417US-2	1147
22850	7590	11/14/2008		
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			EXAMINER CLOUD, JOIYA M	
			ART UNIT 2444	PAPER NUMBER
			NOTIFICATION DATE 11/14/2008	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No.	Applicant(s)	
	10/764,467	MOTOYAMA ET AL.	
	Examiner	Art Unit	
	Joiya M. Cloud	2444	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 August 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5, 7-9 and 11-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 7-9 and 11-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01/07/2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>05/02/2008, 06/25/2008</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This action is responsive to the application filed on 08/21/2008. Claims 1-5, 7-9, and 11-15 are PENDING. Applicant's arguments filed have been carefully considered, but are moot in view of new ground(s) of rejection.

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 08/21/2008 has been entered.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5, 7-9, and 11-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Ward (**US Patent No. 7, 228, 129, hereinafter Ward**).

As per claim 1, Ward teaches a method of determining which types of status information to extract from a monitored device communicatively coupled to a network, comprising: selecting a communication protocol among a plurality of communication protocols used to extract status information from the device (**Abstract and col. 5, lines 24-28 and col. 24, lines 28-46, where the user selectively chooses a protocol for communication**); retrieving, from a first memory, an information associated with the selected communication protocol, includes at least a type of status information (**col. 9, lines 62-col. 10, lines 1-3**), a weight of the status information (**user configurations of operational parameters indicating a high priority, col. 15, lines 1-9 and col. 5, lines 64-col. 6, lines 1-3**), and information for extracting the type of status information from the monitored device using the selected communication protocol (**col. 9, lines 62-col. 10, lines 1-3**), wherein the weight of the status information indicates a relative informative value of the status information with respect to status information of a same type extracted using another of the plurality of communication protocols (**col. 5, lines 64-col. 6, lines 1-3, col. 15, lines 1-9 and col. 17, lines 34-46**); determining if the type of status information is present in a second memory, wherein the second memory comprises status information previously extracted from the device (**col. 22, lines 5-10**); if the determining step determines that the type of status information is present in the second memory, checking whether the weight of the status information stored in the protocol object is greater than a corresponding weight associated with the status information of the same type stored in the second memory (**col. 17, lines 34-46 and col. 23, lines 3-16**); if

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(1) the determining step determines that the type of status information is not present in the second memory, or (2) if the determining step determines that the type of status information is present in the second memory, but the checking step determines that the weight of the status information is greater than the corresponding weight associated with the status information of the same type stored in the second memory, accessing the device using the selected communication protocol and the information for extracting the device contained in the protocol object to obtain the status information (**col. 17, lines 34-46 and col. 23, lines 3-16**).

As per claim 2, Ward teaches a method further comprising repeating the determining, checking, and accessing steps for each type of status information contained in the protocol object (**paragraphs [0038], [0046], [0047], [0049], and [0052]**).

As per claim 3, Ward teaches a method further comprising repeating the selecting, retrieving, determining, checking, and accessing steps for each protocol of the plurality of communication protocols (**paragraphs [0038], [0046], [0047], [0049], and [0052]**).

As per claim 4, Ward teaches a method wherein the determining step comprises: determining if the type of status information is present in a status information map in the second memory, the status information map having at least one entry, wherein each entry includes a status information type, a status information value, and a status information weight (**col. 22, lines 53-67 and col. 15, lines 38-49**).

As per claim 5, Ward teaches a method wherein the selecting step comprises: selecting a communication protocol among SNMP, HTTP, and FTP (**col. 7, lines 9-15**).

As per claim 7, claim 7 is substantially the same as claim 1, but in system form rather than method form. Therefore, the rejection for claim 1 applies equally as well to claim 7.

As per claims 8-9, claims 8-9 are substantially the same as claim 4-5, but in system form rather than method form. Therefore, the rejection for claim 4-5 applies equally as well to claim 8-9.

As per claims 11-15, claims 11-15 are substantially the same as claim 1-5, but in computer program product form rather than method form. Therefore, the rejection for claim 1-5 applies equally as well to claim 11-15.

CONCLUSION

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joiya Cloud whose telephone number is 571-270-1146. The examiner can normally be reached Monday to Friday from on 7:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Vaughn can be reached on 571-272-3922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-3922.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information

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for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JMC

/William C. Vaughn, Jr./

Supervisory Patent Examiner, Art Unit 2444

October 30, 2008